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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/537,772

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EXAMINER

SMITH, MATTHEW J

ART UNIT

PAPER NUMBER

3635

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/537,772	<b>Applicant(s)</b> GROBENSTIEG ET AL.	
	<b>Examiner</b> Matthew J. Smith	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 4-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-14 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 5, 7-10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (4193734) in view of Tiffin et al. (4016688).

Williams discloses, in Fig. 3, a welded profile for fitting a digger with a backhoe bucket or a loading shovel comprising: an upper flange 56 and a lower flange 54; sidewalls 52 operatively connected to the upper flange and lower flange; the corner regions include positioning locations 74 for cylinder attachment points; the corner region includes a contour connected to the upper flange which accommodates the cylinder attachment points; and a hollow-box design but not upper corner regions having reinforced profiles between the upper flange and the sidewalls, the corner regions formed with separate sheet-metal sheets welded to the respective sidewalls, the sidewalls have a thinner cross section than the corner regions, at least the lower flange positioned between the corner regions flush with the respective corner regions, the corner regions include a reducing cross-sectional area, the reducing cross-sectional area faces the respective sidewall, the reducing cross-sectional area ends flush with an outside contour of the respective sidewall, the reducing cross-sectional area converges towards an inside and outside contour of the respective sidewall, a connection element welded on an exposed end region of the profile, a cross-section of the connection

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element adapted to a cross-section of the exposed end region, or welding the corners to the flanges.

Tiffin et al. present, in Fig. 2, upper corner regions and lower corner regions 28-31 having reinforced profiles between the upper flange and the sidewalls and between the lower flange and the sidewalls; the corner regions formed with separate sheets welded to the respective sidewalls; the sidewalls having a thinner cross section than the corners; the lower flange positioned between the corner regions to be essentially flush with the respective end corner regions; the corner regions include a reducing cross-sectional area; the reducing cross-sectional areas faces the respective sidewall; the reducing cross-sectional area ends flush with the respective sidewall outside contour; the reducing cross-sectional area converges towards an inside and outside contour of the respective sidewall; a connection element welded on the profile exposed end region and having a hollow-box design; the connection element cross-section on the respective box end cross section exposed end region cross-section; and the corner regions connected by welding to the respective upper flange and lower flange.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to assemble the Williams boom incorporating the end and corner regions of Tiffin et al. in order to increase stiffness.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Tiffin et al. as applied to claim 4 above, and further in view of Vaerk et al. (4337601).

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The combination discloses the invention substantially as claimed but not the reducing cross-sectional area ends flush with an inside contour of the respective sidewall.

Vaerk et al. show the respective cross-section reducing area ends 56 substantially flush with the inside contour of the associated sidewall 52.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have the inside contour in a box-shape, as substantially shown by Vaerk et al., since it is well known and no new, unexpected, or unpredictable result would occur.

#### ***Allowable Subject Matter***

Claims 11-14 are allowed.

#### ***Response to Arguments***

Applicant's arguments, see pages 6 and 7, filed 20 October 2009, with respect to claims 1 and 9 have been fully considered and are persuasive. The 35 U.S.C. 103 rejection of claims 1 and 9 has been withdrawn. The examiner contends Tiffin et al. does remedy the deficiencies of Williams since the stiffer profile would have been a desirable feature for the modified Williams. Again, the examiner apologizes for not advancing prosecution.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Smith whose telephone number is (571) 272-7034. The examiner can normally be reached on T-Th, 8-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./  
Supervisory Patent Examiner, Art Unit 3635

/M. J. S./  
Examiner, Art Unit 3635  
11 January 2010